IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3146 of 2001
With
FIRST APPEAL No. 3147 of 2001
To
FIRST APPEAL No. 3149 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

ORIENTEAL INSURANCE CO.LTD. - Appellant(s)
Versus
ISHWARBHAI BHULABHAI VANKAR & 2 - Defendant(s)

==========

Appearance :
MR HM BHAGAT for Appellant(s) : 1,
MR RUDRADATT D RAVAL for Defendant(s) : 1,
MR JV JAPEE for Defendant(s) : 2 - 3.

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 19/07/2006

ORAL JUDGMENT

1. By way of these appeals, the appellants have challenged the judgement and award dated 04.04.2001 passed by the Motor Accident Claims Tribunal, Sabarkantha in MACP Nos. 35, 36, 874 and 1624 of 2000 whereby the Tribunal awarded Rs. 25,000/- to each of the claimants.

2. The appeals arise from the accident near Rudaradi in which Rickshaw no. GJ-9T-3611 is stated to have been involved. All the occupants suffered injury on the left

lower limb to the extent of 10-17%.

3. Heard learned counsel for the parties. Prima facie, from the record, it seems that the insurance company has taken up the contention that the insurance policy at Annexure 'A' bearing no. 3686 of 1999 pertains to Vehicle no. GJ-9-2051 and not the said Rickshaw GJ-9T-3611. In that view of the matter, it is the contention of the insurance company that the vehicle involved in the accident was not insured and therefore the insurance company is not liable for any payment. It appears that the Tribunal has not considered this aspect.

4. In that view of the matter, I am of the view that the matter is required to be remanded to the Tribunal for for fresh consideration. Since the matter is being remanded, this Court has not entered into the merits of the matter as the same shall affect the rights of the parties before the Tribunal. In the premises aforesaid, the following order is passed in each appeal.

(i)The award of the Tribunal is quashed and set aside.

(ii)The matter is remanded to the Tribunal for fresh consideration and the parties are at liberty to lead appropriate evidence.

(iii)It is made clear that the amount deposited by the insurance company before this Court shall be transmitted to the Tribunal and the entire amount shall be invested by the Tribunal in a Fixed Deposit.

(iv)The interest accruing on the said deposit shall continue to accrue and be added on to the deposit on maturity/renewal.

(v)The said deposit along with accrued interest shall be subject to the final outcome of the appeal and be paid to the party succeeding in the appeal.

(vi)The Tribunal is directed to hear and dispose of the appeal within a period of six months from the date of receipt of the writ of this Court.

4. With the above observations, appeals are allowed accordingly. No order as to costs in each appeal.

(K.S. JHAVERI, J.)

Divya//